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UNITED STATES PATENT AND TRADEMARK OFFICE

MAY 19 2006

U.S. PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID JOHN TYRRELL, CHANTEL SPRING BUHROW
DAVID ROLAND OTTS, DUANE GERARD KRZYSIK,
EARL DAVID BROCK, JAMES LOUIS CAHALL, and
SAMUEL QCHENG LIN

Application No. 09/746,880

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on April 17, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

Appellants filed an Information Disclosure Statement (IDS) on January 28, 2003

It is not clear from the record whether the examiner considered the IDS submitted or whether the examiner notified appellants of why their submission did not meet the criteria set forth in 37 CFR 1.97 and 1.98 as the examiner has not initialed next to each of the references nor signed and dated the 1449 as required by the Manual of Patent Examining Procedure (MPEP) § 609 C(2).

Application No. 09/746,880

According to MPEP § 609 C(2) (Eighth Ed., Aug. 2001):

Examiners must consider all citations submitted in conformance with the rules and this section, and their initials when placed adjacent to the considered citations on the list or in the boxes provided on a form PTO-1449 . . . provides a clear record of which citations have been considered by the Office. The examiner must also fill in his or her name and the date the information was considered in blocks at the bottom of the PTO-1449 or PTO/SB/08A and 08B form.

Accordingly, it is

ORDERED that the application is returned to the examiner for

- (1) proper consideration of the IDS filed January 28, 2003,
- (2) notification to appellant in writing of such consideration, and
- (3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
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By:



DALE M. SHAW
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DMS/vsh